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Boughner v. Sec’y of Health, Educ. & Welfare, 572 F.2d 976, 977 (3d Cir. 1978). The court has sound discretion in addressing a Rule 60 motion, and is reviewable on appeal under an abuse of discretion standard. Id. The Third Circuit has cautioned that “Rule 60(b) motions [are] ‘extraordinary relief which should be granted only where extraordinary justifying circumstances are present.’” Bohus v. Beloff, 950 F.2d 919, 930 (3d Cir. 1991) (quoting Plisco v. Union R. Co., 379 F.2d 15, 16 (3d Cir. 1967)). In the present case, the Court will not vacate its decision awarding attorney’s fees because such extraordinary circumstances are not present.

Defendant’s counsel, Susan Reiss, argues that she did not receive proper service of the motion. The Court finds this argument unpersuasive under the standard of Rule 60. Electronic case filing became mandatory in this district on January 31, 2005. Under Local Civil Rule 5.2, “[p]apers served and filed by electronic means in accordance with procedures promulgated by the Court are, for purposes of Federal Rule of Civil Procedure 5, served and filed in compliance with the local civil and criminal rules of the District of New Jersey.”

Plaintiff filed the motion for attorney’s fees electronically on April 26, 2005. In the certificate of service attached to the motion, Plaintiff’s counsel, James Langton, indicated that he had served Ms. Reiss via electronic mail. Service by electronic mail is permitted under this district’s procedures if the sending attorney becomes aware that the Notice of Electronic Filing was not transmitted successfully to a party, and the receiving attorney is a registered electronic filer. See Electronic Case Filing Policies and Procedures § 16 (Sept. 1, 2005). Ms. Reiss indicates in her papers that she was registered to use the electronic filing system, but had not signed up for email notification for this case. By registering, Ms. Reiss consented to service of all papers via the electronic filing system. See id. Because Ms. Reiss could not receive notice

through the system, Plaintiff could serve her by electronic mail. Therefore, as Plaintiff complied with the requirements of this district's procedures regarding electronic filing, this Court does not find that the alleged difficulties with service warrant relief under Rule 60.

Because the Court does not vacate its decision to award attorney's fees to Plaintiff, Defendant's substantive arguments regarding the EAJA will not be considered.

For the reasons given above, and for good cause shown;

It is on this 16th day of November, 2005,

ORDERED that Defendant's motion to set aside the award of attorney's fees [8] is
DENIED.

s/ Anne E. Thompson

ANNE E. THOMPSON, U.S.D.J.